

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:

JOSHUA ADAM HUTCHISON)
ALLYSHA MAE HUTCHISON) Bk. No. 16-05686-CW3-13
7443 Chowning Rd.) Chapter 13
Springfield, TN 37172) Judge Walker
SSN: XXX-XX-0577 XXX-XX-4359)
Debtor(s).)

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: May 12, 2017

IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: May 31, 2017 at 8:30 a.m. in Courtroom 1, 2nd Floor Customs House, 701 Broadway, Nashville, TN 37203

NOTICE OF TRUSTEE'S MOTION TO DISMISS FOR CAUSE PURSUANT TO 11 U.S.C. § 1307(c)

Henry E. Hildebrand, III, Standing Trustee for Chapter 13 matters in the Middle District of Tennessee, by and through his counsel, has asked the Court for the following relief: **Trustee's Motion to Dismiss for Cause Pursuant to 11 U.S.C. § 1307(c).**

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before the response date stated above, you or your attorney must:

1. File with the court your response or objection explaining your position. Please note: the Bankruptcy Court for the Middle District of Tennessee requires electronic filing. Any response or objection you wish to file must be submitted electronically. To file electronically, you or your attorney must go to the court website and follow the instructions at: <<https://ecf.tnmb.uscourts.gov>>.

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.).

2. Your response must state the deadline for filing responses, the date of the scheduled hearing and the motion to which you are responding.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by viewing the case on the court's website at <<https://ecf.tnmb.uscourts.gov>>.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

Date: April 21, 2017

/s/ Margaret P. Reidy

Margaret P. Reidy
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee
P. O. Box 340019
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TRUSTEE'S MOTION TO DISMISS FOR CAUSE PURSUANT TO 11 U.S.C. § 1307(c)

Henry E. Hildebrand, III, Standing Trustee for Chapter 13 matters in the Middle District of Tennessee, by and through his counsel, respectfully moves this Court to dismiss the above-styled case for cause pursuant to 11 U.S.C. § 1307(c) for failure of the debtors to adequately disclose liabilities.

The debtors filed a voluntary petition under Chapter 13 of Title 11 on August 11, 2016. On Schedule D of the debtors' petition, the debtors disclosed that Yamaha/gemb ("Yamaha") has a claim for \$3,257 secured by a water purification system. The debtors valued the water purification system at \$1,000. The Order confirming the debtors' Chapter 13 plan ("Confirmation Order") was entered on September 27, 2016. Paragraph 3. d. of the Confirmation Order provides for Yamaha to be paid a value of \$1,000 with 3.5% interest and a monthly payment of \$19 in Class 4 as a § 506 claim secured by a water purification system.

On September 26, 2016, Aqua Finance, Inc., filed an unsecured claim for \$3,416.33 designated as court claim 4 ("Claim 4") on the Court's claim register. A review of the documents attached to Claim 4 evidences that the debtors entered into a Retail Installment Credit Agreement for the purchase of a water refiner and reverse osmosis on November 6, 2013. This claim appears to be for the Yamaha "water purification system" provided for on the debtors' petition and the Confirmation Order.

On November 20, 2016, Synchrony Bank filed a claim for \$2,460 secured by a 2008 Yamaha XVS65XB/C VIN# JYAVM01E58A119703 designated as court claim 7 ("Claim 7") on the Court's claim register. The face of the proof of claim asserts that Yamaha's claim is unsecured in the amount of \$443.54. The documentation attached to Claim 7 indicates that the debtor, Joshua Hutchison, and Matthew Nabors entered into an installment contract to purchase a 2008 Yamaha on December 7, 2013. The 2008 Yamaha motorcycle was not disclosed on the debtors' petition nor was it provided for by the Confirmation Order.

A review of Claims 4 and 7 demonstrates the debtors failed to adequately disclose assets and liabilities. The debtors incorrectly provided for Yamaha as having a claim secured by a water purification system. Yamaha's claim is secured by a 2008 motorcycle. The debtors did not disclose an ownership interest in a motorcycle, and to date, the debtors have not amended their petition to disclose such interest. The debtors also failed to disclose Aqua Finance, Inc., as having a claim for a water purification system. Failure of the debtors to adequately disclose assets and liabilities to the Trustee, the Court, and other parties in interest constitutes cause pursuant to 11 U.S.C. § 1307(c), which justifies dismissal of the debtors' case.

WHEREFORE, the premises considered, the Trustee respectfully requests the Court dismiss the above-styled case for cause for the debtors' failure to adequately disclose assets and liabilities.

Date: April 21, 2017

Respectfully submitted,

/s/ Margaret P. Reidy
Margaret P. Reidy
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee
P. O. Box 340019
Nashville, TN 37203-0019
615-244-1101; Fax 615-242-3241
www.ch13nsh.com
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on April 21, 2017, a true and correct copy of the foregoing was served in the following manner:

By Electronic Case Noticing to:

U.S. Trustee;
Scott D. Wilson, Counsel for Debtors

By U. S. Postal Service, postage prepaid to:

Joshua A. and Allysha M. Hutchison, 7443 Chowning Rd., Springfield, TN 37172
Scott D. Wilson, Wilson Legal Services, 405 1/2A 31st Ave. N., Nashville, TN 37209
Synchrony Bank, P.O. Box 530912, Atlanta, GA 30353
Aqua Finance, Inc., One Corporate Dr., Suite 300, Wausau, WI 54401

/s/ Margaret P. Reidy
Margaret P. Reidy
Counsel to Standing Chapter 13 Trustee

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DRAFT ORDER DISMISSING CASE

It appearing to the Court, based upon the certification of the Trustee's counsel as indicated by her electronic signature below, that the Trustee, by and through his counsel, has filed a Motion to Dismiss for Cause and that pursuant to Rule 9013-1 of the Local Rules of the Bankruptcy Court for the Middle District of Tennessee, has forwarded a copy of that motion along with notice and an opportunity to be heard to the debtors, debtors' counsel, and the Assistant U.S. Trustee and that no affected party in interest has objected to or requested a hearing on the Trustee's motion, it is

ORDERED, the above-styled case is dismissed, for cause, for failure of the debtors to adequately disclose assets and liabilities.

THIS ORDER WAS SIGNED AND
ENTERED ELECTRONICALLY AS
INDICATED AT THE TOP OF THE
FIRST PAGE.

APPROVED BY:

Margaret P. Reidy
Counsel to Standing Chapter 13 Trustee
P.O. Box 340019
Nashville, TN 37203-0019
615-244-1101; Fax 615-244-3241
pleadings@ch13nsh.com